

Patent
Serial No. 10/523,940
Reply Brief in Reply to Examiner's Answer of October 7, 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket: GB 020134

MATTHEW P.J. BAKER ET AL.

Group Art Unit: 9430

Serial No. 10/523,940

Examiner: CANDAL ELPENORD

Filed: FEBRUARY 8, 2005

CONF. NO. 9430

TITLE: ARQ SYSTEM WITH STATUS AND PACKET ACKNOWLEDGEMENT

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

Appellants herewith respectfully present its Reply Brief as follows:

ARGUMENT/REMARKS

The Examiner's Answer on page 2, in section 3, entitled "Status of Claims", states that "[t]he advisory noted that the amends are entered upon appeal, and thus the amended submitted after are now being entered." It is believed that this entry is merely a clerical error in that as stated in the Appeal Brief, page 4, submitted on July 23, 2008, "[n]o amendment After Final Action was submitted." Accordingly, no Advisory Action was provided in this Application and no further amendments to the claims are entered for consideration.

Turning to the "Grounds of Rejection" that starts on Page 3 of the Examiner's Answer, it is respectfully submitted that the Examiner's Answer is most telling in what it does not address as opposed to what it addresses.

The Examiner's Answer attempts to divert the discussion to be whether Diachina discloses a bit map which the Examiner's Answer interprets as a positive acknowledgment in terms of the claims of the present application (see, Examiner's Answer, Response to Arguments section, page 19, line 20 through page 20, line 2), and whether Diachina discloses a status report sent to the base station

(see, Examiner's Answer, Response to Arguments section, page 20, lines 3-4). This argument is repeated on page 20, lines 11-18, which in fact is the same argument continued from the Final Office Action dated April 17, 2008 and repeated in the Examiner's Answer on page 10, lines 6-14.

While Appellants do not concede this interpretation of Diachina and in fact reserve the right to dispute this interpretation should further discussion of this interpretation become relevant in further actions, it is respectfully submitted that even if this interpretation is accepted in arguendo, Diachina fails to provide that which is indisputably missing from Padovani. It is undisputed that Padovani fails to disclose "transmitting a status signal to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet", which in terms of the claims of the present application, is a data packet transmitted after the status request. (See, Examiner's Answer, page 9, lines 8-13.)

Accordingly, it is telling that the Examiner' Answer has made no attempt to explain how Diachina's bit map provides a positive

acknowledgement or a negative acknowledgement to indicate a status of a data packet, transmitted after the indicator signal when Diachina is clear in stating that (emphasis added) "[t]he mobile station then transmits a bit map to the communication system to indicate which frames have been correctly received by the mobile station at the point when it received the polling request." (See, Diachina, abstract.) The specification of Diachina reiterates this operation in stating that (emphasis added) "[t]he mobile station then transmits a bit map to the communication system to indicate which frames have been correctly received by the mobile station at the point in time when it received the status request." (See, Diachina, Col. 4, lines 7-11, the same section cited in the Examiner's Answer in support of the rejection of the pending claims.)

However, the Examiner's Answer makes no attempt at explaining how the bit map corresponds to transmission of a positive or negative acknowledgement to indicate the status of a data packet that is transmitted after the status request, when Diachina is expressly clear on its face to state that the bit map is only an acknowledgement that corresponds to frames received up to the time

of the status request, which in fact is the main thrust of the argument provided in the Appellants' Appeal Brief.

It is respectfully submitted that Diachina makes perfectly clear that the bit map transmitted from the mobile station to the base station indicates the status of frames at the point of receipt of the status request. Accordingly, the bit map of Diachina does not indicate the status of a data packet transmitted after the status request.

It is respectfully submitted that the secondary station of claim 21 is not anticipated or made obvious by the teachings of Padovani in view of Diachina. For example, Padovani in view of Diachina does not disclose or suggest, a secondary station that amongst other patentable elements, comprises (illustrative emphasis added) "a receiver configured to receive an indicator signal followed by a data packet from a primary station; and a transmitter configured to transmit a status signal to indicate reception of the indicator signal before transmission of a positive acknowledgement or a negative acknowledgement to indicate a status of the received data packet" as recited in claim 21, and as similarly recited in each of claims 1, 3, 5, 14, 15, 19 and 24. Clearly, Padovani does

not address this limitation and Diachina shows a bit map indicating the status of frames at the point of receipt of the status request and not a status of a data packet received after the status request.

It is respectfully submitted that the Examiner's Answer has made no attempt to address this glaring deficiency in Diachina.

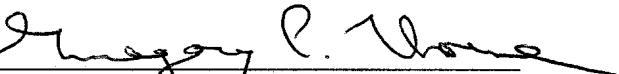
Based on the foregoing, the Appellants respectfully submit that independent claims 1, 3, 5, 14, 15, 19, 21 and 24 are patentable over Padovani in view of Diachina and notice to this effect is earnestly solicited.

Claims 2, 4, 6, 13, 16, 17, 20, 22, and 25 respectively depend from one of claims 1, 3, 5, 14, 15, 19, 21 and 24 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration and allowance of each of the dependent claims is respectfully requested.

Patent
Serial No. 10/523,940
Reply Brief in Reply to Examiner's Answer of October 7, 2008

As should now be perfectly clear, claims 1-25 are patentable over any of Padovani in view of Diachina alone and in any combination of Wang, Shi, Rune and Khan. Thus the Examiner's rejection of claims 1-25 should be reversed.

Respectfully submitted,

By 
Gregory L. Thorne, Reg. 39,398
Attorney for Appellants
December 5, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

Please continue to direct all correspondence and inquiries to:
Kevin Ecker, Esq.
Philips Intellectual Property &
Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Tel: (914) 333-9618